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A  
L E T T E R

GENTLEMAN in the Country,

Concerning the Acquittal of

**JOSEPH HICKER**, Attorney,

UPON AN

Indictment for Perjury, before the Lord Chief  
Justice Lee, on *Thursday* the 11th Instant.

---

*Prob Curia, inverſique Mores!* HOR.

*Theirs be the Art, to varniſh an Offence,  
And fortify their Crimes with Confidence.*

---

L O N D O N :

Sold at the Sign of JUSTICE, in the Temple.

M.DCC.LI.

[ Price Six-pence. ]

65

R E T E R



GENTLEMAN in the County

Consent of the Agent of

JOSEPH WICKES, Attorney

UTON AN

Indictment for Perjury the Lord Chief  
Justice has on 17th July the 18th Instant



His Court, therefore, Alured Hor.

There is the first to be made an Officer  
and forty four names with Cognomen



L O N D O N

Sold in the City of London, in the Temple

W. H. G. L.

[The 2nd Part]

## LETTER

TO A

GENTLEMAN, &amp;c.

S I R,

**H**AVING heard a great deal of this Mr. *Hickey*, who had stood indicted for Perjury upwards of a Twelve-month past; and being informed by the publick Papers that he was honourably acquitted; I had the Curiosity, unsolicited by you, to enquire into the Truth of this Article. It is evident that a Person under an Impeachment of so heinous, so

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very

very atrocious a Crime as this, cannot be said to be *honourably* acquitted, but in one Way: Which is, by a strict Enquiry into, and thorough Disquisition of the Matters of Fact; and the Sense of a Judge and Jury *upon* those Facts. Unfortunately for Mr. *Hickey*, this was not his Case. Mr. *Hickey*, I am told, in his Letters to Mr. *Hervey*, Master to *John Hamilton* the Prosecutor, pretends not only to be a Man of Virtue, but a *Gentleman*; and without Doubt, if you could get a Sight of his Conscience and his Pedigree, you would find him equally well founded in both these Assertions. Now, ask any Man of Rank and Character, (and Mr. *Hickey* is *proved* to be so, because we have *his* Word for it) ask, I say, any Man of Rank and Character, under so flagitious a Charge, what he would take to finish such an Affair, without bringing it to a legal Issue; what do you think would be  
his



his Answer? Why, his Answer would naturally be, that he would *take* the Tongue out of your Head for making him a Proposal so derogatory to his Honour. “ Don’t you see, he would say, “ that it is my Business to promote the “ Scrutiny? That there is a Taint, even “ an Imputation of Perjury, that no- “ thing but a Court of Justice can wash “ away? That there is no Possibility of “ my being ever set right in the Eyes of “ the World again, but by being first “ found *Rectus in Curia*? Will not “ Mankind suspect at least, if they do “ not conclude, that I have purchased “ my *Quietus* by some indirect and il- “ licit Means; or, that the Absolution, “ thus secretly given me, was not an “ Act of Justice, but an Act of Mer- “ cy? Had you considered these Things, “ Sir, you could not but have seen that “ ten thousand Pounds would not make

“ me Amends for complying with such  
 “ a Proposition.” Nay, so obvious are  
 Surmises of this Sort, that *Hamilton* was  
 congratulated when he came out of Court,  
 and told by his Friends, that they thought  
 he had done very wisely. “ We con-  
 “ clude, said they, that they have paid  
 “ the Debt, and fourscore Pounds is a  
 “ much more substantial Satisfaction than  
 “ bringing a Man to the Pillory.” And  
 this is indisputably the State of every Man,  
 who, under any criminal Accusation, en-  
 deavours, as we say, to hush or huddle  
 up the Matter. The Law itself says,  
*Qui judicium fugit, crimen fatetur* ;  
 but mark, Sir, what follows ; for the  
 Event of this Day will be an eternal Re-  
 proach both to the Law and the Profes-  
 sors of it ; *Many Counsellors have done*  
*virtuously, but Hamilton's excelled them*  
*all.* To make use of another Scripture  
 Allusion ; *Hear what comfortable Words*  
*the*

*the Law saith unto you.* His Counsel told him, *in Effect*, that, conscious as he was of Mr. *Hickey's* injurious Treatment of him, he might probably expose himself to worse Things, by persisting in seeking any Redress, or even this vindictive Justice on his Betrayers : That he had been grievously used indeed, but it was to no Purpose to complain.—Duly examined, this was the Sum and Substance of their Remonstrance. And this being the Case, judge, Sir, to what our so much boasted Laws are reduced. When I say judge, I mean to recommend it to you, and to every Man, to reflect seriously upon the present Corruption and *Degeneracy* of them. For I will never believe that our wise Ancestors, as they were thought, either framed or transmitted them to us, with such Defects and Solæcisms in them, as are repugnant to the Dictates of Nature, and the Voice of Reason and  
com-

common Sense. It is universally thought, that the dreadful Change they have undergone is to be imputed solely to the Practitioners and Agents of them. The *Law*, instead of exerting its utmost Force and Vigour towards punishing the lamentable Looseness of our Manners, seems rather to be vying with the Multitude in their Depravity ; and more disposed to *conform* with, than to *reform* the Transgressors of it.—But the most curious Part of this Transaction is still behind. *Hamilton* having been threaten'd, as I have already hinted, that, upon Failure of Proof, the tongue-doughty Mr. *Hickey* would certainly bring an Action against him for a malicious Prosecution ; and being ask'd whether he would agree to stop the Process, upon Assurance given on the Part of the Defendant, that he would be *graciously* pleased, on that Condition, to take no further Notice of what had happened ?

pened? He refused his Consent, and desired the Counsel to proceed. Notwithstanding which, it was said, that to be sure he would be directed by his Counsel. and that he could not be so unwise and obstinate not to comply with these Stipulations. And in this hurrying Way were Matters concluded, and a Bargain struck up, which they called a Compromise.

Methinks it was extremely hard that they would not let this poor Fellow know his own Mind, if he did not know his own Interest. But, in Truth, he knew them both too well, to be caught by this flimsy Stratagem. He rightly thought, if there were any Law remaining among us, by which I mean any *Rule of Right*, (which, I am sorry to say, are not always synonymous) he had as little Reason to fear Mr. *Hickey*, as a Judgment from Heaven, for what he was doing. — A Point  
of



of great Importance to Mr. *Hickey* being settled in this short Treaty, one should have thought he would have rested contented with this Victory; though, as *Pyrrhus* was told by one of his Generals, such another would utterly undo him. Nevertheless they did not stop here, but had the Confidence to talk also of some Composition with Mr. *Hervey*, who had presumed to let others know, all *he* knew of his Servant's Wrongs and Oppression. But Mr. *Bathurst* gave a prompt and vehement Rebuke to this Insolence, and check'd it. — What made this specious Fallacy the more ridiculous was, that I am told some of the Prosecutor's Counsel \* had been inform'd, that these Terrors and Objections had been thrown in his Way

\* Tho' *Hamilton's* Counsel are spoke of in the Plural Number, it ought to be in the Singular; because his Defeat is to be imputed singly to Sir T— B—; the other Gentlemen stand acquitted.

be.

before, and that his Constancy was Proof against them all. For when his first Solicitor told him, that it behoved him to consider what he was about, and that Mr. *Hickey*, if his Evidence should prove insufficient, would certainly sue him for Defamation: That a Jury might probably give Damages, for which he would be insolvent; and that his Insolvency would subject him to Imprisonment: His Answer was, that they could not do worse by him than they had done already, and that he would be content to lie in a Jail all the rest of his Life, rather than not expose the Villains who had injured him. His Warmth and Stedfastness on this Occasion not only proved his own Innocence, but carried with them fresh Conviction of the Injustice whereof he complained.—But be pleased to observe, Sir, if this Retreat was an advisable Measure for the Prosecutor, it ought

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to

to have been recommended a little more seasonably. This Thing had been upwards of a Year in Agitation, Council had been feed, and Motions made, Term after Term, to bring on the Trial; yet this poor forlorn Bubble had had no Intimation of this pretended Difficulty, this childish Bugbear, till just before the Indictment was to be read. His Counselors on a sudden turn'd Magicians, and rais'd a Phantom on him, of which he never dreamt. But probably it is a Rule with the Gentlemen of the Law, not to let their Clients know they can make nothing of their *Cause*, till they find they can make nothing more of *them*.

Mr. *Hervey*, I hear, who attended at *Guild-Hall*, in order to give Countenance to a poor and innocent Man, contrary to all *Law*, had also been expostulated with, previously to the Application made  
to

to *Hamilton*. And tho' he was greatly incensed and scandalized at this preposterous Behaviour, he kept his Temper; and, what is still more difficult, kept his *Countenance*. He swallow'd the fulsome Froth with which they fed him, seemingly without kecking: Tho' it sat so heavily on his Stomach; as to give him very painful Sensations. However, upon the Representation made by these Gentlemen of his Servant's Dilemma, he thought it not adviseable either to urge or to dissuade any Thing. He would by no Means depart from his Character, as Patron and Protector of his Domestic; and, on the other Hand, would not expose himself to that of a Persecutor. Loose and uncertain as he knew the Ordinances and Decrees of Law to be, he thought, whatever might be the Result of the *Prosecution*, that it was highly fitting a Court of Justice should have Cognisance of the *Charge*. For this Reason

son he was extremely pleased to find his Servant had resolved to make his Case publick; that in case Mr. *Hickey* and his *audacious Vouchers* escaped the Rigour of the Law, the Judge at least might note in his Books how *faithfully* Mr. *Hickey* had served *John Hamilton*, and the yet greater *Fidelity* with which Mr. *Bristow* \* had served his Friend Mr. *Hickey*.

As I myself know a little of the Frailties and Infirmities of the Law, I con-

\* This *Bristow*, I am told, is a Barber in *St. Alban's Street*, whom Mr. *Hickey*, to serve a Purpose, represents, in his Affidavit, as the Friend of *Hamilton*, though he never saw him till he was so kind to force him into the Hands of Mr. *Hickey*, contrary to their Agreement; for *Hamilton* had been cautioned against entrusting his Business to an *Irish Attorney*, by his Counsel in *Dublin*, who, by a Kind of prophetic Spirit, foretold what has befallen him.



self that, abstractedly from the Motives of Humanity and Publick Spirit, by which we may suppose this Gentleman to have been actuated, my Curiosity alone would have made me desirous to bring such a Thing into a Court of Justice. I should have been glad to see, whether by any Defects in the Law, or any *Perversions* in the Law, by quibbling Interpretations of it, there were a Possibility for Offences such as these to pass, without either Censure, Penalty, or any Sort of Retribution.

In order to give the thoroughest Satisfaction to your Enquiry, I have given Mr. *Hervey* a great deal of Trouble : But as I design the Publick shall partake of my Intelligence, I presume ye will both of ye be better pleased, that I do not confine myself singly to what passed at the *Guild-Hall*.

This

This Gentleman assured me that he had been informed by a Person of great Eminence in the Law, that a Man may swear to a *Lie*, almost to Demonstration knowing it to be a Lie, and yet not be *perjured*. And, among other such unintelligible and paradoxial Doctrines, he told him also, that a *conscientious* Persuasion that a Man was perjured, and a *legal* Conviction of his Perjury, differed widely: That a Juror might report a Person innocent in *Westminster-Hall*, and yet, with the utmost Consistency, confess to you that he thought him guilty *out* of it. Are not these Things strange, Sir? Are they not stupendous? When we consider the Spirit and Intent of all Laws, (which are the *Essence* of them) must not such Tenets as these be looked upon as the grossest and most damnable Heresies that can be in Jurisprudence? The scrupulous

pulous Tenderness and Nicety with which the Law proceeds, when it is about to inflict Pains and Penalties, is a right Caution, where a *Possibility* appears that an innocent Man may suffer; but where the Guilt is apparent, from a Concurrence of Circumstances and Testimonies, too nice Scannings of the Law may destroy the Purpose of it; it may give the Wicked Advantage *over* the Innocent, which is to invert the Order and Nature of Things. But it was the universal Belief of Mankind, that, in spite of all the Quirks and Subterfuges of the Law, in spite of all the Eloquence and Subtilties of his *accomplish'd* Counsel, Mr. Hickey would, upon his Trial, have made just the Figure his Adversaries could wish. And it was for this very Reason that the Doors were so artfully shut against the Plaintiff, and that Justice, which is always *blind*, was also to be *dumb* on this Occasion.

You

You may perceive, Sir, that I am coming now to the Analysis of this seeming Mystery; but the Solution is so plain and obvious, that doubtless you have anticipated it. — I wonder whether the Gentlemen of the Law, when they are tempted to these Irregularities, are so much their own Dupes, to imagine they impose upon those against whom they are committed. Surely they could not take Mr. *Hervey* to be so void of Feeling, as not to have a *Sense* of his Abuse, tho' he did not think fit to express it. It is recorded of some sententious Person, who was ask'd why he had not replied to something, that he made the following Answer: *Why, because, said he, as I would reply, I might not; and as I might, I would not.* This we may presume was Mr. *Harvey's* Alternative.

I am

I am sincerely of Opinion, that if the Application made to poor *Hamilton* had been more explicit, it would have been more decent. They had done better at once to say to him,——“ That we are  
 “ really sorry for you, but it is Time to  
 “ come to an Explanation of the Error  
 “ you have been in, (tho’ we ourselves  
 “ have led you into it) and to let you  
 “ know, that *there is no Law for a*  
 “ *Lawyer*. Mr. *Hickey* is a Subaltern of  
 “ ours, and the Chiefs of our Corps  
 “ think it incumbent on them to give  
 “ him Sanctuary. By this Precedent we  
 “ hope to convince all Mankind that a  
 “ Lawyer is a *Noli-me-tangere* ; and, like  
 “ the Plant that bears that Name, will  
 “ illude your Grasp if you offer to touch  
 “ him. We do not openly avow this  
 “ Maxim, nor will you find it in our  
 “ Books. It is a *Nostrum* of ours, as one  
 “ may call it ; but you will find both the  
 “ Doctrine and Praxis just as much esta-  
 “ blished, as if it were to be met with in  
 “ our *Law-Dispensari s.* You have spent

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“ a great



“ a great deal of Money amongst us  
 “ fruitlessly ; and to make you some Com-  
 “ pensation, we have agreed to admit you  
 “ to the Knowledge of this Secret, lest  
 “ you should be engaged in some other  
 “ such wild Undertaking. By your Evi-  
 “ dence, your *Cause* seems to have been a  
 “ good one ; and by your Testimonials  
 “ your *Character* appears to have been  
 “ so : But Persons under these Descrip-  
 “ tions are not those who prosper best un-  
 “ der our Auspices. Truth is a Thing we  
 “ do not much regard ; and we are in-  
 “ deed so little used to it, that when you  
 “ put it into our Hands, it is a Weapon  
 “ we know not how to wield. If in any  
 “ Instance we could depart from this  
 “ *By-law* of ours, we would have paid  
 “ the Crown the Compliment, whose  
 “ Cause this is as well as yours, to have  
 “ waved our Prerogative ; but it is pro-  
 “ per that even the Crown itself know,  
 “ as we have said before, that *there is no*  
 “ *Law for a Lawyer.*”—Pray, Sir, tell  
 me, when next I hear from you, whe-  
 ther

ther this Method of proceeding had not been as warrantable as the other.

I question whether the Offences done under the *Name* of Law, and in the *Agency* of it, are not pretty near as numerous, as those committed *against* the Laws.

The Account of this iniquitous Transaction, together with a vexatious Suit of my own in *Chancery*, wherein a barrater Priest is the Trickster and Incendiary, (two most Christian-like Characteristics) have given me such horrid Impressions of all judicial Matters, that you will not be surprized to find me so full of Invective against the Law, where I saw Room for any Reflections upon it. But Satires of the most *general* Tenor are not to be read without Restrictions. It should be supposed therefore, that they bear in Front the *Preamble* to publick Edicts, and that they are address'd only *to those whom they may concern*. It were as weak, as it would be injurious, to believe any particular People, any Body of Men, or any Order of Men, are universally vile

and abandoned. Mankind is a motley, variegated Tribe, of whom nothing scarcely can be *universally* affirm'd. For this Reason, as I imagine one might find Infernal Spirits in *Westminster-Abbey*, so, I doubt not but Angelick ones are to be met with in *Westminster-Hall*. Nay, I have heard Mr. *Hervey* lavish in his Encomiums on a certain Person's Behaviour, (whose Merits have since promoted him to be a Judge) originally an Advocate in poor *Hamilton's* Cause, not only as a *Gentleman*, but as a Man of Sense and Virtue. Lord *Bacon* says, he knows no Trust so important as that of a *Counsellor*; which seems to be so undeniable a Truth, that a most rigid Conscientiousness is requisite in the Discharge of it. And yet how difficult is it, in *Westminster-Hall*, for any Man to retain this just Sense of his Duty. When young Men, of modest, gentle, and ingenuous Dispositions, are destin'd to this Calling, they seem to me to be Objects of Compassion. The frequent Derision with which they see se-

rious

rious *Things* treated, and their Manner of treating one another, must not only be repugnant, but *pungent*, to Minds so constituted. They are obliged, as Men of Honour, to set forth to the best Advantage, *certain Causes*, to which as Men of Honour they cannot possibly wish Success. Then they are *venal*, by Profession; they are *Sophisters* by Profession: And the habitual Exercise of such a Function will be apt to create in Men such an Indistinction of Right and Wrong, as may end at last in an Irreverence for all Truth. This I say, Sir, is the State and Condition even of the *Lots* we may suppose in *Sodom*; but where there are by Nature the least Seeds of Corruption about a Lawyer, judge, Sir, how quickly they must take Root, and how luxuriantly they must *germinate*, under the Influence of so disingenuous an Education. As I have the Happiness to be thoroughly known to you, I persuade myself I shall not be suspected of any Insincerity, when I protest to you that these Things really afflict me. What is to become



come of his I have heard long ago, that  
it is a Misfortune to a Man to be *serious*;  
I fear I shall live to be told, that it is a  
Misfortune also to be *virtuous*.

London, July 13. *I am*  
Yours, &c.

London, July 13.



# **P O S T S C R I P T.**

**I** AM just now inform'd that I might  
have spared myself and you this Trou-  
ble, and that the Case of *John Hamil-*  
*ton* will be given the Publick in a more  
ample Manner, with the respective Tes-  
timonies and Affidavits on both Sides.

**P I N I S.**



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